

That is, both standards must be satisfied each month, *i.e.*, the 90% standard for Cleared Trouble Tickets and the 5% standard for the rejection of resubmitted orders as duplicates.

Respectfully submitted,

William D. Smith

cc: All Active Parties (By E-mail and U.S. Mail)

PERFORMANCE ASSURANCE PLAN
BELL ATLANTIC - NEW YORK

APRIL 2000

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PERFORMANCE ASSURANCE PLAN

I. INTRODUCTION

To ensure that Bell Atlantic - New York ("BA-NY") provides high-quality service to Competitive Local Exchange Carriers ("CLECs") after BA-NY has gained entry into the long distance market pursuant to Section 271 of the Telecommunications Act of 1996 (the "1996 Act"), the commitments set forth in this Performance Assurance Plan (the "Plan" or "PAP") will take effect after BA-NY's entry into that market.¹ The actions include, *inter alia*, the adoption of carrier-to-carrier service measurements and standards, scoring mechanisms to determine whether CLECs are receiving non-discriminatory treatment (including statistical methodologies), bill credits for unsatisfactory performance, monthly reporting requirements, and provisions for annual reviews, updates and audits. Also included are provisions for a Quality Assurance Program for BA-NY's measures and an Exceptions Process that will allow BA-NY to obtain, subject to Commission approval, modifications to reported service results. Under this Plan, BA-NY will issue bill credits to CLECs if it provides unsatisfactory performance. The amount of the bill credits under this Plan will total no more than \$208 million annually.²

¹ After BA-NY obtains long distance entry, the Public Service Commission (the "Commission") will retain the first line of authority for enforcing these commitments. The Federal Communications Commission (the "FCC") will have authority for preventing BA-NY from future marketing in long distance should post-entry developments so warrant.

² BA-NY recognizes that interconnection agreements between BA-NY and the CLECs remain an essential part of the statutory scheme under the 1996 Act. Although the performance provisions of those agreements will be in effect during the term of the agreements, BA-NY will engage in good faith negotiations on new performance provisions when the current interconnection agreements expire. Where an existing interconnection agreement with a CLEC in New York State incorporates performance standards and remedies, such standards and remedies will not be unilaterally withdrawn by BA-NY. Such standards and remedies will continue to be offered by BA-NY in subsequent negotiations with those CLECs upon expiration of the existing agreements and similarly will be negotiated in good faith with other CLECs who request negotiation of such terms and conditions.

II. PROVISIONS OF THE PLAN

A. Measures, Methods of Analysis and Standards

1. Measures

The measures and standards in this Plan have generally been taken directly from the Guidelines for Carrier-to-Carrier Performance Standards and Reports developed in Case 97-C-0139 and cover the areas of Pre-order, Ordering, Provisioning, Maintenance and Repair, Billing and Network Performance. These measures and standards were developed after more than two years of collaborative meetings with CLECs and were initially approved by the Commission on February 16, 1999 and modified on June 30, 1999.³ The measures have also been reviewed by the Department of Justice. Accordingly, these measures and standards represent the interests of a broad body of stakeholders.

2. Methods of Analysis

Primarily, two interrelated methods will be used to monitor BA-NY's wholesale performance to CLECs on the performance measurements. The first method is designed to measure BA-NY's overall Section 271 performance in four categories that correspond to the methods or modes CLECs use to enter the local exchange market: Resale; Unbundled Network Elements ("UNEs"); Interconnection (Trunks); and Collocation.⁴ This is referred to as the Mode of Entry ("MOE") measurements method, and a total of \$75 million in annual bill credits will be available to CLECs if BA-NY provides the maximum allowable unsatisfactory performance in

³ See Case 97-C-0139, *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies*, "Order Adopting Inter-Carrier Service Quality Guidelines" (issued February 16, 1999); Case 97-C-0139, *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies*, "Order Establishing Permanent Rule" (issued June 30, 1999). See also Case 97-C-0139, *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies*, "Order Establishing Additional Inter-Carrier Service Quality Guidelines and Granting in Part Petitions for Reconsideration and Clarification" (issued February 16, 2000).

⁴ The collocation measures encompass cageless collocation.

all four MOE categories. (See Appendix A.) The MOE measurements provide a mechanism to measure the overall level of BA-NY's service to the entire CLEC industry in the four areas.

The second method will measure BA-NY's performance in twelve critical areas, on both a CLEC-specific and a CLEC-aggregate basis. The critical measures are: (1) Response Time OSS Interface; (2) OSS Interface Availability (Prime Time); (3) % On Time LSR and Completion Notice Metrics⁵; (4a) % Missed Appointment - BA - Total - EEL; (4b) % Missed Appointments; (5) % Missed Appointments - BA - No Dispatch - Platform; (6) % On Time Performance Hot Cut (adjusted for misses due to late FOCs); (7) % On-Time Performance - UNE LNP; (8) % Repeat Reports within 30 days; (9) Mean Time to Repair; (10) % Final Trunk Groups Blocking; (11) Collocation; and (12) DSL Metrics.⁶ This is referred to as the Critical Measures measurements method. The Critical Measures are a subset of the measures included in the MOE measurements, and a total of \$75 million in annual bill credits will be available to CLECs if BA-NY provides the maximum allowable out of parity performance on all twelve Critical Measures. (See Appendix B.) The Critical Measures cover BA-NY's service in areas

⁵ Critical Measure No. 3 includes the following measures:

OR-1-02 "% On Time LSRC - Flow Through - POTS";
OR-1-04 "On Time LSRC < 10 lines (No Flow Through) POTS";
OR-1-06 "% On Time LSRC >= 10 Lines - Flow Through - POTS";
OR-2-02 "% On Time LSR Reject - Flow Through - POTS";
OR-2-04 "% On Time Reject < 10 Lines (No Flow Through)";
OR-2-06 "% On Time LSR Reject >= 10 Lines (No Flow Through) - POTS"; and
OR-4-02 "Completion Notice - % On Time - POTS and Specials."

⁶ Critical Measure No. 12 includes the following measures:

PO-8-01 "Manual Loop Qualifications Response Time";
PO-8-02 "Engineering Record Request Response Time";
PR-4-14 "% Completed On Time - 2 Wire xDSL (DD-2 Test & Serial Number)";
PR-4-15 "% Completed On Time - 2 Wire xDSL (DD-2 Test Total)";
PR-4-16 "% Completed On Time - 2 Wire xDSL (No DD-2 Test & Serial Number)";
PR-4-17 "% Completed On Time - 2 Wire xDSL (No DD-2 Test & 800 # Provided)";
PR-4-18 "% Completed On Time - 2 Wire xDSL (No DD-2 Test & No 800 # Provided)"; and
PR-6-01 "Installation Troubles for DSL Capable Loops Within 30 days."

critical to the CLECs and provide a mechanism to assure that CLECs on an individual basis are receiving non-discriminatory service. All bill credits in this section are at risk each month. Any bill credits assigned to a submetric that has no activity or is under development will be divided proportionally among the submetrics in that Critical Measure.

In addition, this Plan contains two "Special Provisions" sections that focuses on a number of measures that have been viewed as measuring key aspects of BA-NY's performance after it gains entry into the interLATA market. In order to assure that BA-NY will provide satisfactory service in these key areas, *e.g.*, flow through, hot cuts and ordering, BA-NY has made \$58 million in addition to the \$150 million available for bill credits for these measures. In addition, \$24 million in unused bill credits will be available for certain UNE measures. (See Section II(E)(1)(b) *infra*.)

3. Standards

Each measure will be evaluated according to one of two standards. For the measures where a BA-NY retail analogue exists, a "parity" standard will be applied.⁷ For those measures where no retail analogues are available, an absolute standard has been specified as a surrogate to determining whether BA-NY is providing non-discriminatory service to the CLECs. The metrics with absolute standards are displayed in Appendix C.

B. Distribution Of The \$150 Million Among Measurements

1. The \$150 Million Distribution

\$75 million in annual bill credits have been attributed to the MOE measures and have been distributed to each of the MOE categories in amounts that reflect the importance of that MOE to the local exchange competition. Each month one-twelfth (1/12) of the annual amount

⁷ The parity measures in the Plan fall into two categories: Measured variables and Counted variables. Measured variables are metrics of means or averages, such as mean time to repair. Counted variables are metrics of proportions such as percent measures.

will be available for bill credits. (See Appendix A.) An analogous principle has been applied to the Critical Measures bill credits. (See Appendix B.)

2. Reallocation Of Potential Bill Credits

The Commission will have the authority to reallocate the monthly distribution of bill credits between and among any provisions of the Plan and the Change Control Assurance Plan. The Commission will give the Company 15 days notice prior to the beginning of the month in which the reallocation will occur. Any reallocation will be done pursuant to Commission order.

Bill credits of \$218 million are available for shifting to areas deemed critical during the course of the year. The funds consist of:

\$75 Million – Mode of Entry;

\$75 Million – Critical Measures;

\$58 Million – Special Provisions; and

\$10 Million – Change Control Assurance Plan.

3. The Change Control Assurance Plan

A separate plan has been proposed for the Change Control process. Under the Change Control Assurance Plan, \$10 million in bill credits will be available to CLECs for unsatisfactory performance on four Change Control metrics. However, under that Plan if the bill credit amounts due CLECs in any one plan year exceed \$10 million, BA-NY will use funds available for bill credits under the MOE categories to pay CLECs for bill credits owing for Change Control measures, up to an additional \$15 million. Bill credits for Change Control measures will be given priority over bill credits for MOE measures. The MOE monthly caps will not apply to the Change Control bill credits, but will continue to apply to the MOE measures.

C. MOE Scoring And Bill Credit Calculations

1. Scoring

As noted, the measures and standards for the MOE measurements have been placed into four categories: Resale, UNE, Interconnection (Trunks) and Collocation. Since the 1996 Act requires that BA-NY provide interconnection “that is at least equal in quality” to that provided to itself, and “non-discriminatory access” to unbundled elements, each month BA-NY will apply statistical tests, which are outlined in Appendix D, to BA-NY and CLEC performance data to develop Z scores, t scores or equivalent permutation scores for the measures.⁸ These statistical scores will be converted into a performance score for each MOE measure as follows:

<u>Statistical Score</u>	<u>Performance Score</u>
$Z \leq -1.645$	-2
$-1.645 < Z \leq -0.8225$	-1
$-0.8225 < Z$	0

For small sample sizes of measures with a parity standard, the Permutation Test will be applied to obtain the statistical scores, which will be converted into a performance score. (See Appendix D.) For small sample sizes of measures with an absolute standard of 95%, a small sample size table will be applied to obtain the performance scores. Measures with absolute standards will be given a performance score of 0, -1, or -2 depending on the performance for that measure. (See Appendix C.)

Thus, for each of the measures within the four MOE categories, BA-NY’s performance will be graded 0 (no discrimination), -1 (discrimination in question), or -2 (discrimination probable). Each measure with a performance score of -1 in a given month will be subject to change, depending upon the score for that measure in the next two months. Should BA-NY

⁸ The statistical methodologies set forth in Appendix D were taken from the New York State Carrier-to-Carrier Guidelines Performance Standards and Reports in Case 97-C-0139.

maintain a performance score of 0 for the next two months, then the score in the original month will be changed from -1 to 0. The 0 would then be used in conjunction with all of the other metrics in that MOE category to determine an aggregate score. A score of -2 in a given month will not be subject to change based upon performance in subsequent months.

The performance score for each metric will then be weighted, based upon the importance of the metric in determining whether that MOE is open to competition. (See Appendix A, which lists the weights for the MOE measurements.) The weighted scores will then be aggregated (averaged) by each MOE category (Resale, UNE, Interconnection and Collocation), producing an overall weighted score for each of the four categories.

2. Bill Credit Calculations

If BA-NY's overall (aggregate) performance score in the four categories falls below a minimum score in any given month, wholesale price reductions in the form of bill credits will be implemented and remain in effect for one month.⁹ If an overall score falls to the maximum score or below, the maximum wholesale price reduction will be implemented. Scores between the minimum and maximum scores will also be entitled to credits pursuant to a credit table for each MOE category. (Credit Tables with the range of scores between the minimum and maximum and the applicable rates appear in Appendix A.) The bill credits payable to the CLECs will be determined each month by dividing the amount from the table in Appendix A by the actual monthly volumes of the CLEC units in service. The measurement units for each of the MOEs is as follows:

1. UNE – Lines in service at end of month;
2. Resale – Lines in service at end of month;
3. Interconnection (Trunks) – Minutes of use in month; and

⁹ The intent is that the minimum score for each MOE category corresponds to the threshold at which there is a 95% certainty that parity does not exist.

4. Collocation – Cages completed during month.¹⁰

The maximum scores represent the maximum allowable out of parity condition, which would significantly limit a mode of entry as a competitively viable option. The minimum and maximum performance scores and the start point percentages are as follows:

	<u>Minimum</u>	<u>Maximum</u>	<u>Start Point %</u> ¹¹
UNE	-.190	-.670	20%
Resale	-.191	-.670	20%
Interconnection	-.301	-1.000	20%
Collocation	.000	-1.200	20%

Should BA-NY provision performance at one half the difference (*i.e.*, the midpoint) between the minimum and maximum scores in any one of the four MOE categories for three consecutive months, the amounts in the credit tables in Appendix A for that same three-month period will be doubled for the applicable MOE category. (The midpoints for the MOEs are delineated in Appendix A.) The amounts in Appendix A will remain doubled until such time as BA-NY achieves a score of one quarter (or greater) the difference between the minimum and maximum scores in that category in any given month. In addition, performance at the maximum score for three consecutive months in any one of the four MOE categories will result in an extension of the original duration of the UNE-P offering set forth in the Pre-filing Statement (at 8-11) for two years for every geographic area.

¹⁰ For the purpose of this Plan:

1. Lines in service for UNE means UNE-Platform lines, all types of loops and IOF.
2. Lines in service for Resale means Resale lines plus circuits.
3. Trunks – minutes of use per month.
4. Collocation arrangements completed: all arrangements including (a) physical, (b) virtual and (c) other collocation arrangements provided under tariff.

¹¹ The “Start Point %” indicates the amount of monthly bill credits that will be due to CLECs if BA-NY trips the minimum score. For example, if BA-NY were to score -.191 on the UNE MOE in a month, then 20% of the \$3,750,000 monthly amount would be due. (See Appendix A.)

Appendix E provides a detailed step-by-step description of how the MOE performance scores and bill credits will be calculated and distributed to the CLECs.

3. The Domain Clustering Rule

Domain Clustering will provide CLECs with an additional layer of protection under the MOE mechanism. The term Domain refers to four service quality measures (*i.e.*, Pre-Order Ordering, Provisioning, and Maintenance and Repair)¹² that are included in the UNE and Resale MOEs. Under the Domain Clustering Rule, each Domain will be reviewed each month. If 75% or more of the respective Ordering, Provisioning, or Maintenance and Repair Domain weights are tripped, the higher of the clustering overlay or overall market score will be used to determine the market adjustments for the UNE and Resale MOEs. The same rule will apply to the Pre-Order Domain, except that the clustering overlay would be effective if all Pre-Order response time measures failed at the -2 level, in which case 75% would be used in the overlay calculations. The Domain Clustering methodologies are set forth in detail in Appendix E.

D. Critical Measures Scoring And Bill Credit Calculations

1. Scoring

BA-NY's performance in twelve measurement categories is critical to the CLECs' ability to compete in the New York local exchange market. Should BA-NY performance miss the applicable performance standards for even *one* of these twelve categories, the eligible CLECs will be entitled to bill credits. (See Appendix B.) The statistical tests and performance scoring mechanism described in the MOE section also apply to these measures.¹³

¹² The domains do not include billing.

¹³ To the extent that a Critical Measure contains more than one measure, the weights from Appendix A will be used to determine the amount of bill credits available for the individual measure.

Like the MOE scoring, each Critical Measure with a performance score of -1 in a given month will be subject to change, depending upon the score for that measure in the subsequent two months. Should BA-NY maintain a performance score of 0 for those two months, then the score in the original month will be changed from -1 to 0. A score of -2 in a given month, however, will not be subject to change based upon performance in subsequent months.

2. Bill Credit Calculations

For each Critical Measure, BA-NY's performance for all CLECs during a given month will be averaged. Should the resulting performance score in any one category fall to -1 or below or to a Z or t score of -0.8225 or below ("Sub-Standard Performance"),¹⁴ 50% of the maximum bill credits for that measure will be payable to the eligible CLECs. The eligible CLECs are all those CLECs that received Sub-Standard Performance during that month (the "Aggregate Rule"). In addition, should any CLEC receive Sub-Standard Performance for two consecutive months, bill credits for that CLEC will be implemented for the two month period, notwithstanding the fact that all CLECs on average may have received satisfactory performance during the two months (the "Individual Rule").¹⁵

For performance scores between -1 and -2, or Z or t scores between -0.8225 and -1.645, the bill credits will increase by ten incremental amounts and the amounts payable to each CLEC will be in direct proportion to the amount of service that CLEC receives from BA-NY compared

¹⁴ The Permutations Test will be used to derive Z and t scores for measures with small sample sizes.

¹⁵ If all CLECs on average received an aggregate score below -1 for both months, the individual CLEC with the below average score would be entitled to bill credits for the Critical Measure in question under the Aggregate Rule. Likewise, if all CLECs on average received an aggregate score below -1 for the first of the two months and an aggregate score above -1 for the second month, the individual CLEC with Sub-Standard Performance during both months would be entitled to receive bill credits pursuant to the Aggregate Rule for the first month and pursuant to the Individual Rule for the second month. A CLEC is only entitled to receive bill credits under the Individual Rule if it receives a score of -1 or less in a Critical Measure category and the CLEC group on average received a score greater than -1 for the Critical Measure.

to the other CLECs who received Sub-Standard Performance pursuant to the Critical Measure. For example, under Critical Measure No. 8, “% Repeat Reports within 30 days,” the percent of bill credits for an unsatisfactory score would be calculated by determining the number of lines a CLEC had compared to other CLECs that received Sub-Standard Performance. If a score falls to the maximum level, the maximum bill credits will be implemented for the Critical Measure in question.

Appendix F provides a detailed step-by-step description of how the Critical Measures scores and bill credits will be calculated and distributed to the CLECs.

E. Special Provisions

1. UNE Measures

A number of key measures have been identified that measure aspects of BA-NY’s performance on service quality on UNE items that are viewed as essential for CLECs during the first year after BA-NY’s entry in the interLATA market. Accordingly, additional funds will be made available for these measures under the subparagraphs described below.

a. Flow Through Measures For UNEs

BA-NY will make an additional \$10 million per year available for potential bill credits, which will be paid on a quarterly basis, for the following flow through UNE metrics measured on a cumulative quarterly basis: OR-5-01 “% Flow Through - Total” and OR-5-03 “% Flow Through Achieved.” Under this section a performance standard of 80% will apply to OR-5-01 and a performance standard of 95% will apply to OR-5-03. If at the end of any quarter BA-NY has not achieved one of these two performance standards, it will distribute \$2.5 million in bill credits. The first point of assessment will be upon BA-NY’s entry in to the interLATA market, and any bill credits due under this section will be distributed at that point in time based upon performance during the three calendar months preceding entry into the interLATA market. The

bill credits will be available to all CLECs purchasing UNEs. Any amounts due will be credited based on the CLEC's lines in service.¹⁶ The scoring methodology for this measure is set forth in more detail in Appendix H.

b. UNE Ordering Performance

An additional \$2 million per month, or \$24 million per year, will be made available for bill credits for four non-flow-through UNE performance measures:

OR-1-04 "% On Time LSRC < 10 lines (Electronic) – POTS";
OR-1-06 "% On Time LSRC ≥ 10 lines (Electronic) – POTS";
OR-2-04 "% On Time LSR Reject < 10 lines (Electronic) – POTS"; and
OR-2-06 "% On Time LSR Reject ≥ 10 lines (Electronic) – POTS."

Funding for these additional bill credits will come from any unused funds in a month or the six prior months. \$500,000 in bill credits per metric will be distributed under this section to all CLECs ordering UNEs based on the CLEC's lines in service if performance is less than 90% on the respective measures. These credits will be distributed like the bill credits under Critical Measures, Aggregate Rule. (See Appendix H.)

c. Additional Hot Cut Performance Measures

An additional \$24 million in new funds for bill credits will be made available for service quality related to two Hot Cut Performance Measures: PR-4-06 "Missed Appointment - % on Time Performance - Hot Cut" and PR-6-02 "Installation Quality - % Installation Troubles Reported Within 7 Days." Bill credits will be paid under this section if either of two events occurs:

- (a) If for any two consecutive months BA-NY fails to achieve either 90% on-time performance for Hot Cuts or has a greater than a 3.00% rate for I-codes for hot cuts, BA-NY will distribute \$1 million in bill credits to the affected

¹⁶ Lines in service will equal: UNE-P, UNE Loops, IOF, and EEL Loops.

CLECs. These credits will be distributed like the bill credits under Critical Measures, Aggregate Rule. If BA-NY fails to meet either of these measures in the first month, but meets them in the second month, no bill credits will be due.

- (b) If for any one month BA-NY fails to achieve 85% on-time performance for Hot Cuts or scores greater than a 4.00% rate for I-codes for hot cuts, BA-NY will distribute \$2 million in bill credits to the affected CLECs for that month. These credits will be distributed like the bill credits under Critical Measures, Aggregate Rule. (See Appendix H.)

2. Electronic Data Interface Measures

In order to ensure that the Electronic Data Interface (“EDI”) between BA-NY Operational Support Systems (“OSS”) and the CLEC systems is providing non-discriminatory service, \$24 million in additional funds will be made available for the measures described below.

a. % Missing Notifier Trouble Ticket PONs Cleared Within 3 Business Days

The new measure is defined as the percent of EDI missing notifier trouble ticket PONs cleared within 3 business days from the day of receipt of the trouble ticket. The elapsed time begins with receipt at the Bell Atlantic Systems Support Help Desk of a trouble ticket for the EDI missing notifiers (*i.e.*, order acknowledgement, order confirmation, order rejection, work completion, and billing completion notices) with the PONs in questions enumerated with the appropriate identification. The ticket is considered cleared when Bell Atlantic has either requested the CLEC to resubmit the PON or communicated the current status of the PON and provided the delayed status notifier to the CLEC. Tickets received after 5 P.M. and trouble ticket clearances sent after 5 P.M. will be considered effective on the following business day. Performance shall be reported for the week in which the trouble ticket was received. This measure has a standard of 90% and \$1 million in additional bill credits are available per month for CLECs if this is not satisfied. In addition, this measure is subject to the requirement that no

more than 5% of the orders resubmitted by CLECs at BA-NY's request are rejected as duplicates. BA-NY must satisfy both standards to avoid the payment of bill credits. (See Appendix I.)

b. % Order Confirmations/Rejects Sent Within 3 Business Days

This new measure is defined as the percent of orders confirmed or rejected by Bell Atlantic within 3 business days of receipt as a percent of total LSRs received.¹⁷ \$0.5 million per month in additional bill credits will be available for this measure. (See Appendix I.)

c. % SOP To Bill Completion Within 3 Business Days

This measure is defined as the percent of orders provisioning complete in BA-NY's Service Order Processor ("SOP") that have BCN notices within 3 business days. The source of this information is the DCAS PON Master File. The start time is when physical completion of the order has been entered into SOP. The end time is when the BCN is time stamped in DCAS. \$0.5 million in additional bill credits will be available for this measure. (See Appendix I.)

F. Monthly Reports

In order to ensure that there is timely information regarding BA-NY's performance, BA-NY will report its performance on a monthly basis. Each month a 6-page report will be made available to all CLECs providing service in New York.

A sample copy of the report appears in Appendix G. The first three pages will provide information regarding the MOE measures and will include:

1. BA-NY actual performance to its retail customers where such measures exist and to its CLEC customers for each metric;

¹⁷ This is a measure of completeness not timeliness. Order confirmation/reject timeliness standards are 90% or 95% within a range of 2 hours to 3 business days depending on order type and whether the measure is included in the MOE on Special Provisions sections.

2. The number of observations for BA-NY and the CLECs for each measure (where applicable);
3. The BA-NY standard deviation (where applicable);
4. The sampling error (where applicable);
5. The appropriate statistical scores (where applicable)¹⁸ or the difference between BA-NY's and the CLECs' actual performance on the measure (where applicable);
6. A performance score for each measure;
7. The weight for each measure;
8. The weighted performance score; and
9. An aggregation of the performance scores, weighted performance scores, and aggregate bill credits, if any, due under each MOE.

The fourth page will provide a listing of the Critical Measures and the bill credits, if any, that are due for these measures on a CLEC-wide basis. The fifth and sixth pages address the Special Provisions and the Change Control Measures. The seventh page will provide a summary of the total bill credits, if any, due the CLEC industry. The final page will provide the amount, if any, due to the individual CLEC for the MOE and Critical Measures.¹⁹ The monthly report will be provided within 25 days of the end of each month.

BA-NY will continue to provide a separate report on all measures established in the Carrier-to-Carrier ("C2C") proceeding (Case 97-C-0139), allowing for additions, deletions and other modifications ordered by the Commission. In addition, to the extent allowed by law, BA-NY will make available CLEC-specific C2C electronic reports enabling those receiving the reports to evaluate performance at greater levels of detail, including but not limited to residential

¹⁸ A Permutations Test will be applied to small sample sizes to obtain a probability. The probability will be converted to a Z or t score, which in turn will be converted to a performance score.

¹⁹ The computer model that will be used to calculate the MOE and Critical Measures bill credits will be posted on BA-NY's TISOC Website.

and business, geographic and class of service performance. The C2C reports will be made available to any CLEC requesting the reports.

BA-NY will provide to each CLEC in a usable format the underlying data used to calculate BA-NY's performance for that CLEC at the same time BA-NY submits its monthly report. Such reports must also be filed with the Department's Staff.

G. Bill Credits Payment

Should BA-NY's performance not meet the standards set forth above for the MOE and Critical Measure measurements, CLECs will receive bill credits for those MOE categories or Critical Measures scores that fall below the respective minimum levels. To the extent warranted, bill credits will appear on each CLEC's bill four months after the month in which the unsatisfactory performance has occurred. If the bill credits exceed the balance due BA-NY on the CLEC's bill, the net balance will be carried as a credit on to the CLEC's next month's bill.

BA-NY will issue checks in lieu of outstanding bill credits to CLECs that discontinue taking service from BA-NY.²⁰

H. Term Of Performance Assurance Plan

This plan will become effective the day BA-NY gains entry into the interLATA market. At such time as BA-NY eliminates its Section 272 affiliate, the parties will reconvene for purposes of reevaluating the appropriateness of the standards, measurements and corrective actions set forth in this Plan. Until such time as a replacement mechanism is developed or the Plan is rescinded, this Plan, as it may be modified before such time by the Commission and BA-NY, shall remain in effect. (See Section II(J), *infra*.)

²⁰ BA-NY will be specifically prohibited from recovering revenue losses attributable to the Performance Assurance Plan and the Change Control Assurance Plan.

I. Quality Assurance Program

BA-NY will establish a Carrier-to-Carrier Service Quality Assurance Program after adoption of this Plan. BA-NY will formulate a Quality Assurance Program for wholesale services that leverages the successful experience gained from a similar program used in the retail environment. These procedures are being introduced to provide oversight in a systemic way and to further continuous improvement in service quality reporting activities. Sampling and analysis techniques will be employed for all Domains to ensure accuracy of measurements reporting and work document accuracy. Wholesale services will be segregated along Resale, UNE Loop, and UNE-Platform categories and disaggregated further into appropriate subdivisions of wholesale products.

J. Exceptions and Waiver Process

Recognizing that C2C service quality data may be influenced by factors beyond BA-NY's control, BA-NY may file Exception or Waiver petitions with the Commission seeking to have the monthly service quality results modified on three generic grounds. The first involves the potential for "clustering" of data, and the effect that such clustering has on the statistical models used in this Plan. The requirements of the clustering exception are set forth in Appendix D.

The second ground for filing exceptions relates to CLEC behavior. If performance for any measure is impacted by unusual CLEC behavior, BA-NY will bring such behavior to the attention of the CLEC and attempt to resolve the problem. Examples of CLEC behavior which may influence performance results include order quality; actions that cause excessive missed appointments; incorrect dispatch identification, resulting in excessive multiple dispatch and repeat reports; inappropriate X coding on orders, where extended due dates are desired; and delays in rescheduling appointments when BA-NY has missed an appointment. If such action

negatively influences BA-NY's performance on any metric, BA-NY will be permitted to petition for relief. The petition, which will be filed with the Commission and served on the CLEC, will provide appropriate, detailed documentation of the events, and will demonstrate that the CLEC behavior has caused BA-NY to miss the service quality target. BA-NY's petition must include all data that demonstrates how the measure was missed. It should also include information that excludes the data affected by the CLEC behavior. CLECs and other interested parties will be given an opportunity to respond to any BA-NY petition for an Exception. If the Commission determines that the service results were influenced by inappropriate CLEC behavior, the data will be excluded from the monthly reports.

The third ground for filing Waivers relates to situations beyond BA-NY's control that negatively affect its ability to satisfy only those measures with absolute standards. The performance requirements dictated by absolute standards establish the quality of service under normal operating conditions, and do not necessarily establish the level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storms, or other events beyond BA-NY's control.

BA-NY may therefore petition the Commission for a waiver of specific performance results for those metrics that have performance targets dictated by absolute standards, if the Company's performance results do not meet the specific standard. This waiver process shall not be available for those metrics for which BA-NY's wholesale performance is measured by comparison to retail performance (parity metrics).

Any petition pursuant to this provision must demonstrate clearly and convincingly the extraordinary nature of the circumstances involved, the impact that the circumstances had on BA-NY's service quality, why the Company's normal, reasonable preparations for difficult situations proved inadequate, and the specific days affected by the event. The petition must also

include an analysis of the extent to which the parity metrics (retail and wholesale) were affected by the subject event, and must be filed within 45 days from the end of month in which the event occurred.

The Commission will determine which, if any, of the daily and monthly results should be adjusted in light of the extraordinary event cited, and will have full discretion to consider all available evidence submitted. Insufficient filings may be dismissed for failure to make a *prima facie* showing that relief is justified.

The resolution of a waiver exception request will occur prior to the scheduled payment period. To facilitate this, any petition seeking a waiver shall be filed within 45 days of the last day of the month in which the challenged event occurred. CLECs will have 10 days to serve and file replies to BA-NY requested exceptions.

BA-NY will compensate CLECs for lost interest while an unsuccessful waiver is under review.

K. Annual Review, Updates And Audits

1. Annual Review And Updates

Each year the Commission Staff and BA-NY will review the Performance Assurance Plan to determine whether any modifications or additions should be made. During this review, Staff and BA-NY will determine, among other things, whether: (1) measures and weights should be modified, added or deleted; (2) modifications should be made to the distribution of dollars at risk among the four MOE and Critical Measures categories; (3) geographic deaveraging should be adopted for reporting metric results; (4) the clustering and CLEC behavior exceptions included in Appendix D should be modified; (5) small sample size procedures should be

modified; and (6) the methodologies used to calculate the bill credits should be modified.²¹ All aspects of the Plan, however, will be subject to review.

The annual review will not be subject to limitation, and any topic legitimately related to the Plan will be reviewed. All disputes will be resolved by the Commission. Nothing in the Performance Assurance Plan can or will diminish Commission jurisdiction over BA-NY service.

The annual review process will be initiated no more than six months before the anniversary date of BA-NY's entry into the long distance market pursuant to Section 271. The parties to Case 97-C-0271 will be given an opportunity to comment on any proposed modifications to the Performance Assurance Plan prior to formal Commission action. Any modifications to the Plan will be implemented as soon as is reasonably practical after Commission approval of the modifications.

2. Audits

Each year, and at least four months prior to the annual review, the Staff will conduct an audit of selected portions of the Plan to assess whether BA-NY is accurately recording and reporting CLEC and BA-NY service quality data. In addition, during the first six months after the Plan has been adopted, Staff will continue its Metric Replication project to assure that the data reported in the monthly reports accurately reflects the service quality being provided to these CLECs.²² At the end of this six-month period, Staff will make a recommendation based on its assessment of BA-NY's internal controls and actual metric replication results whether the

²¹ In particular, during the first annual review, the methodology used to calculate amounts due to CLECs under the Individual Rule for bill credits under the Critical Measures category will be analyzed to determine whether the rule provides for an appropriate distribution of bill credits.

²² Metric Replication evaluates BA-NY's metrics process by attempting to recreate its performance metrics using filtered data from BA-NY's target databases. The target databases include, *inter alia*, NORD, SORD, DCAS, Sentinel, CAFÉ and NAMS. Replication relies on mathematical techniques to verify and validate BA-NY's performance and reporting of the metrics. The objective is to recreate BA-NY's performance metrics using the technical definitions verified and validated in the C2C proceeding.